CHAPTER 354D

RETIREMENT ELECTION, ARTS BOARD, HUMANITIES CENTER, HISTORICAL SOCIETY

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354D.01 DEFINITIONS.

Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms have the meanings given.

Subd. 2. **Individual retirement account plan or plan.** "Individual retirement account plan" or "plan" means the individual retirement account plan established by sections 354B.20 to 354B.30.

Subd. 3. **Covered employment.** "Covered employment" means employment as an eligible employee as defined under section 354D.02, subdivision 2.

Subd. 4. **Professional employee.** "Professional employee" means an employee who is engaged in work that:

(1) is predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical;

(2) involves discretion and judgment in its performance;

(3) cannot be standardized in relation to a given period of time; and

(4) requires advance knowledge in a field of science or learning usually acquired by long study in an institution of higher learning or hospital.

Subd. 5. **Supervisory employee.** "Supervisory employee" means an employee having the authority to hire, transfer, suspend, promote, discharge, assign, reward, or discipline employees, direct the work of employees, or adjust employees' grievances on behalf of the employer. To be included as a supervisory function, the exercise of the authority by the employee may not be merely routine or clerical in nature but must require the use of independent judgment.

History: *1994 c 508 art 2 s 1; 1995 c 141 art 4 s 30; 1996 c 305 art 1 s 90*

354D.02 PARTICIPANTS.

Subdivision 1. **Election.** An eligible employee as enumerated in subdivision 2 who is eligible for membership in the Minnesota State Retirement System under chapter 352, the Public Employees Retirement Association under chapter 353, or the Teachers Retirement Association under chapter 354 may elect to participate in the individual retirement account plan rather than in the general state retirement plan. Election to participate in the plan must be made pursuant to section 354D.04.

Subd. 2. **Eligibility.** Eligible employees are:

(1) any supervisory or professional employee of the State Arts Board;

(2) any supervisory or professional employee of the Minnesota Humanities Center; or

(3) any employee of the Minnesota Historical Society.

History: *1994 c 508 art 2 s 2; 1995 c 141 art 4 s 30; 1996 c 438 art 7 s 1; 2009 c 78 art 9 s 8*

354D.03 SOCIAL SECURITY COVERAGE.

Plan participants are members of the general state retirement plan for purposes of Social Security coverage only, and are covered by the applicable agreement entered into under section 355.02 but are not members of the general state retirement plan for any other purpose while employed in covered employment.

History: *1994 c 508 art 2 s 3; 1995 c 141 art 4 s 30; 1996 c 438 art 7 s 2*

354D.04 PLAN COVERAGE.

An election made under this section is irrevocable. Eligible employees under section 354D.02, subdivision 2, shall elect to participate in either the individual retirement account plan or their respective retirement plan as follows:

(1) An eligible employee with no prior allowable service as a member of the Minnesota State Retirement System, the Public Employees Retirement Association, or the Teachers Retirement Association may elect retirement coverage under either their respective state retirement plan or the individual retirement account plan within 60 days of the start of covered employment.

(2) An eligible employee with prior allowable service as a member of the Minnesota State Retirement System, the Public Employees Retirement Association, or the Teachers Retirement Association may elect prospective coverage by the individual retirement account plan. If individual retirement account plan coverage is elected, accumulated employer and employee contributions and allowable service credit shall remain with the applicable retirement association or system. Notwithstanding any provision of law to the contrary, an individual who has transferred coverage for the same employment to the individual retirement account plan is entitled to an augmented deferred retirement annuity from the prior plan based on the amount representing the employer and employee contributions made on the individual's behalf in the retirement association or system in which the individual was formerly enrolled without regard to whether or not the individual meets the service credit vesting requirements of the applicable retirement association or system. An election made under this clause must be made within 120 days following the date the eligible employee first becomes eligible to make the election.

History: *1994 c 508 art 2 s 4; 1995 c 141 art 4 s 30; 1996 c 438 art 7 s 3*

354D.05 CONTRIBUTIONS.

Subdivision 1. **Member contributions.** (a) Participants in the individual retirement account plan who are specified in section 354D.02, subdivision 2, clause (1) or (2), and who would otherwise be members of a Minnesota State Retirement System, Public Employees Retirement Association, or Teachers Retirement Association plan, shall make a member contribution as specified in section 354B.23, subdivision 1.

(b) For individual retirement account plan members specified in section 354D.02, subdivision 2, clause (3), the member contribution is the employee contribution specified in applicable law for the Minnesota State Retirement System, Public Employees Retirement Association, or Teachers Retirement Association plan in which the individual would otherwise be a member.

(c) Contributions under this subdivision must be made by payroll deduction each pay period and must be in accordance with either section 403(b) or 414(h) of the Internal Revenue Code.

Subd. 2. **Employer contributions.** (a) The employer of an employee described in subdivision 1, paragraph (a), must make an employer contribution to the employee's individual retirement account plan account as specified in section 354B.23, subdivisions 3 and 4.

(b) The employer of an employee described in subdivision 1, paragraph (b), must make an employer contribution to the employee's individual retirement account plan account equal to the employer contribution including, if applicable, any employer additional contribution required by applicable plan law for the Minnesota State Retirement System, Public Employees Retirement Association, or Teachers Retirement Association in which the individual would otherwise be a member.

History: *1994 c 508 art 2 s 5; 1995 c 141 art 4 s 30; 2006 c 271 art 3 s 39*

354D.06 ADMINISTRATION.

(a) The Minnesota State University system or its successor shall administer the individual retirement account plan for eligible employees listed in section 354D.02, subdivision 2, clauses (1) and (2), in accordance with sections 354B.20 to 354B.30.

(b) The Minnesota Historical Society or its successor shall administer the individual retirement account plan for eligible employees listed in section 354D.02, subdivision 2, clause (3), in accordance with section 354D.08.

History: *1994 c 508 art 2 s 6; 1995 c 141 art 4 s 30; 1996 c 305 art 1 s 91; 1996 c 438 art 7 s 4*

354D.07 TRANSFER OF CERTAIN MSRS MEMBER CONTRIBUTION REFUND AMOUNTS TO PLAN.

(a) Notwithstanding any provision of law to the contrary, a former member of the general state employees retirement plan of the Minnesota State Retirement System who is a member of the individual retirement account plan under this chapter may elect to transfer to the individual retirement account plan an amount equal to the refund under section 352.22, subdivision 2, that the member could otherwise receive. The transfer must be made from the general state employees retirement fund directly to the individual retirement account plan and credited by the plan appropriately. No amount under this section is payable directly to any individual.

(b) The election must be made on a form prescribed by the executive director of the Minnesota State Retirement System, after consultation with the administrators of the plan.

History: *1994 c 508 art 2 s 7; 1995 c 141 art 4 s 30*

354D.08 INDIVIDUAL RETIREMENT ACCOUNT PLAN ADMINISTRATION; MINNESOTA HISTORICAL SOCIETY.

Subdivision 1. **General governance.** The Minnesota Historical Society is the plan administrator and has the administrative responsibility for the individual retirement account plan for those eligible employees listed in section 354D.02, subdivision 2, clause (3).

Subd. 2. **Annuity contracts and custodial accounts.** (a) The plan administrator shall arrange for the purchase of fixed annuity contracts, variable annuity contracts, a combination of fixed and variable annuity contracts, or custodial accounts from financial institutions which have been selected by the State Board of Investment and approved by the plan administrator under subdivision 3, as the investment vehicle for the

retirement coverage of plan participants and to provide retirement benefits to plan participants. Custodial accounts from financial institutions shall include open-end investment companies registered under the Federal Investment Company Act of 1940, as amended.

(b) The annuity contracts or accounts must be purchased with contributions under section 354D.05, or with money or assets otherwise provided by law by authority of the Minnesota Historical Society and deemed acceptable by the applicable financial institution.

Subd. 3. **Selection of financial institutions.** The plan administrator may approve up to two financial institutions selected by the State Board of Investment under section 354B.25, subdivision 3, to provide annuity products and custodial accounts for those employees listed in section 354D.02, subdivision 2, clause (3). Only those financial institutions selected by the State Board of Investment and approved by the plan administrator may provide annuity products and custodial accounts for those employees listed in section 354D.02, subdivision 2, clause (3).

The State Board of Investment must periodically review at least every three years each financial institution selected. The State Board of Investment may retain consulting services to assist in the periodic review, may establish a budget for its costs in the periodic review process, and may charge a proportional share of those costs to each financial institution selected. All contracts must be approved by the State Board of Investment before execution by the Minnesota Historical Society. The State Board of Investment shall also establish policies and procedures under section 11A.04, clause (2), to carry out this subdivision.

Subd. 4. **Benefit ownership.** The retirement benefits provided by the annuity contracts and custodial accounts of the individual retirement account plan are held for the benefit of plan participants and must be paid according to this chapter and the plan document.

Subd. 5. **Individual retirement account plan administrative expenses; Minnesota Historical Society.** (a) The reasonable and necessary administrative expenses of the individual retirement account plan for those employees enumerated in section 354D.02, subdivision 2, clause (3), must be paid by plan participants. The plan administrator may charge to plan participants purchasing annuity contracts and custodial accounts pursuant to subdivision 2, paragraph (a), an administrative expenses assessment of a designated amount, not to exceed two percent of member and employer contributions, as those contributions are made.

(b) Any administrative expense charge that is not actually needed for the administrative expenses of the individual retirement account plan must be refunded to member accounts.

History: *1996 c 438 art 7 s 5*